

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7018
BILL NUMBER: SB 603

NOTE PREPARED: Jan 21, 2013
BILL AMENDED:

SUBJECT: Expungement Petitions.

FIRST AUTHOR: Sen. Taylor
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Expungement Order* – It requires a sentencing court to expunge the records of felony and misdemeanor convictions (other than records required by the sex offender registry law) if five years have passed since: (1) the completion of the person's sentence; and (2) the satisfaction of any other obligations imposed on the person as a part of the sentence. The bill allows a law enforcement agency, prosecuting attorney, or court to gain access to permanently sealed records under certain circumstances.
- B. *Criminal History Status of Person* – It provides that if a court orders a person's records to be expunged, the person: (1) shall be treated for all purposes as if the person had not been arrested for or convicted of the felony or misdemeanor recorded in the expunged records; and (2) may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the felony or misdemeanor recorded in the expunged records.
- C. *Repeal of Existing Law* – It repeals a superseded provision dealing with restricting certain records relating to convictions.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Court Fee Revenue:* An individual must request an expungement of records in court. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Explanation of State Revenues:

Explanation of Local Expenditures: This bill could increase the number of hearings that a criminal court would have to conduct.

The following table compares current law with changes proposed in this bill for persons who were convicted of certain misdemeanors and felonies.

Persons Convicted of Misdemeanor or Felony		
	<u>Current Law</u>	<u>Proposed</u>
Misdemeanors or felonies	Misdemeanors or Class D felonies not resulting in injury to a person. No other felony convictions since the person completed the person's sentence.	Misdemeanors or felonies that are not a crime under the sex or violent offender statute.
Time frame for misdemeanants and Class D felons	8 years after the date a person completes the sentence and satisfies any other obligations imposed on the person as a part of the sentence.	5 years after the date a person completes the sentence and satisfies any other obligations imposed on the person as a part of the sentence.
Are Class A, B, C felons eligible?	No.	Yes, 5 years after the date a person completes the sentence and satisfies any other obligations imposed on the person.
Action the court can take	Restrict public access to the records concerning the person's arrest and involvement in criminal or juvenile court proceedings from Department of Correction, state and local law enforcement agencies.	All court records concerning the person shall be permanently sealed and all other records may be given to the person or destroyed.
Employer Restriction	Class B infraction for employer to ask an employee, contract employee, or applicant whether the person's criminal records have been sealed or restricted.	Repealed.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the

judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Department of Correction; Indiana State Police; Bureau of Motor Vehicles.

Local Agencies Affected: Prosecuting attorneys; county sheriffs; trial courts with criminal jurisdiction.

Information Sources:

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